

## REMARKS/ARGUMENTS

All Claims but Claim 6 have been rejected under 35 U.S.C. § 102 or alternatively §103. **Claims 9, 2, and 3** have been rejected under 35 U.S.C. §102(a) as being anticipated by *Bachl et al.* (U.S. Patent Appl. Ser. No. 2002/0136502A1) (hereinafter *Bachl*). Additionally, **Claims 1-5, 7-11, 14-18, 22-24, and 27-30** have been rejected under 35 U.S.C. §102(e) as being anticipated by *Pohnke* (USPN 6,599,033) (hereinafter *Pohnke*). Also, **Claims 19-21 and 31-33** are rejected under 35 U.S.C. § 103 as unpatentable over *Pohnke* in view of *Kunishi* (USPN 6,030,246) (hereinafter *Kunishi*). Finally, **Claims 12-13, 25 and 26** are rejected under 35 U.S.C. § 103 as unpatentable over *Pohnke* in view of *Doi* (U.S. Patent Appl. Ser. No. 2004/0091208A1) (hereinafter *Doi*). These rejections are addressed below.

**Claims 10 & 22** have been amended to further clarify patentable subject matter of the invention. Thus, **Claims 2-22 & 24-33** are now pending in this application.

### Rejection Under 35 U.S.C. §102:

#### *Bachl*

**Claims 9, 2 & 3** have been rejected under 35 U.S.C. §102(a) as being anticipated by *Bachl*.

Reference is first made to independent **Claim 9**. The inventors point out that *Bachl* is an LCD (or LED element) illumination element configured to have light enter a light guide from at least two ends and then be emitted out a side portion located at some point in between the light sources that is either removed or made optically transmissive (See *Bachl* at ¶¶[0002]; [0012], etc.). This is compared to the test device and fabrication aid taught in the present invention. The cited invention has no facility for receiving optical input at one rod and then passing this input to the distal end for evaluation by a receiver element. The cited invention receives two optical inputs only. The *Bachl* inventors do not contemplate a receiver element, nor would they in that they designed a light diffusion and dispersion element not a test bed. Even if the *Bachl* invention could be used in the manner suggested in the Office Action, it would be entirely unsuitable for the intended purpose. First, there would be massive signal loss out of the window 13. This would seriously degrade the effectiveness of *Bachl* as a test tool. Additionally, the presence of the window 13 would also admit stray light into the rods, destroying their usefulness.

as a testing tool capable of measuring and calibrating emitter optical signal with a receiver on the same chip as the emitter (one possible implementation of the present invention). Moreover, the window 13 of *Bachl* is not optional, but rather the core of the invention, and is thus required. The claimed invention includes no window. This distinction alone is enough to distinguish the cited art from the claimed invention. However, the applicants further point out that Claim 9 recites that "each of the rods is *suitably sized to fit into respective barrels* that lead to photonic devices such that each rod seals respective openings of the barrels and thereby prevents contaminating particles from entering each barrel". The cited art does not teach, suggest, or otherwise refer to barrels nor does the cited art teach that the rods are sized to fit into any such barrels. Accordingly, the applicants respectfully submit that the cited art does not teach all of the claim limitations and thus cannot support the rejection under 35 U.S.C. § 102. Accordingly, the applicants respectfully request that the rejection of Claim 9 be withdrawn.

Claims 2 & 3 depend on Claim 9. Thus, for at least the reasons advanced herein with respect to Claim 9 it is submitted that these dependent claims are also allowable. Moreover, many other reasons for allowance are also present in these dependent claims however due to the allowability of Claim 9, these further reasons for allowability need not be discussed at this time. Accordingly, the applicants respectfully request that the rejections of Claims 9, 2, and 3 be withdrawn.

**Pohnke**

Claims 2-5, 7-11, 14-18, 22-24, and 27-30 have been rejected under 35 U.S.C. §102(e) as being anticipated by *Pohnke*.

The applicants first address **Claim 9**. One of the problems with *Pohnke* is that it fills the "rods" with silicone rubber an opaque and not particularly reflective material. Thus, *Pohnke* does not teach rods made of optically transmissive material capable of transmitting optical signal. In the Office Action it is argued that the embodiment having an empty cavity to provide light transmission. The applicants respectfully disagree. An empty cavity full of nothing is not a portion of the rod made of optically transmissive material. Moreover, even if the cavity had something inside it, that something would comprise the ambient material not a part of the rods. Accordingly, the applicants respectfully submit that *Pohnke* does not teach all of the claimed elements of Claim 9.

Claims 2-5, 7-8, 10-11, and 14-18 are claims dependent on Claim 9. Therefore, for at least the reasons advanced herein with respect to Claim 9 it is submitted that these dependent claims are also allowable. Moreover, many other reasons for allowance are also present in these

dependent claims. However due to the allowability of Claim 9, these further reasons for allowability need not be discussed at this time. Accordingly, the applicants respectfully request that the rejections of Claims 9, 2-5, 7-8, 10-11, and 14-18 be withdrawn.

Claim 22, and the claims depending therefrom were also rejected on similar grounds (i.e., anticipated by *Pohnke*) as made with respect to Claim 9. Claim 22 recites the limitation of "the surface of the handle and each of the rods are covered with a reflective material [[, whereby]] arranged so that the reflective material enhances the optical transmission capabilities of the plug device". The amendment confers a structural aspect to the position and nature of the reflective material (i.e., positioned to enhance optical propagation). The Action suggests that the silicone rubber in the tubes of *Pohnke* are the reflective material. This assertion would make the remaining portions of the claim limitations inoperative. For example, in the claimed invention the reflective material is configured such that "reflective material enhances the optical transmission capabilities of the plug device". In one embodiment, this means that the inner surfaces (walls) of the handle and rods are coated with a reflective material (like a mirror surface or metal) to enhance optical propagation properties inside the plug device. When the silicone rubber of *Pohnke* is placed within the rods it blocks rather than "enhances" optical transmission. Thus, the *Pohnke* silicone rubber teaches the exact opposite of the claimed invention. Accordingly, the applicants respectfully submit that the cited art does not teach all of the claim limitations of Claim 22 and thus cannot support the rejection under 35 U.S.C. § 102. Accordingly, the applicants respectfully request that the rejection of Claim 22 be withdrawn.

Also, rejected Claims 24 and 27-30 depend directly or indirectly on Claim 22 which is allowable for at least the reasons explained above. For at least the reasons advanced in support of Claim 22, it is submitted that these dependent claims are also allowable. Moreover, many other reasons for allowance of dependent claims 24 and 27-30 can be asserted should it prove necessary at a later time. Accordingly, the applicants respectfully submit that the asserted grounds for rejection have been overcome and therefore request that the rejections of Claims 22, 24, and 27-30 be withdrawn.

**Rejections Under 35 U.S.C. § 103:**

Claims 19-21 and 31-33 have been rejected under 35 U. S. C. § 103(a) as being unpatentable over *Pohnke* in view of *Kunishi*. Claims 19-21 depend from Claim 9. *Pohnke* is insufficient to establish a rejection of Claim 9 for at least the reasons expressed. Moreover, *Kunishi* fails to remedy these deficiencies. For example, *Kunishi* does not teach or suggest optical transmission through the device from one rod end to the other rod end. Absent such a

teaching *Kunishi* is irrelevant to the basic idea of the present invention. Accordingly, because the cited art, alone or in any reasonable combination, fails to recite all claim limitations, it is respectfully submitted that the cited art fails to establish a *prima facie* case of obviousness as to Claims 19-21. Accordingly, the Applicants respectfully submit that these claims are allowable.

Claims 31-33 depend from Claim 22. *Pohnke* is insufficient to establish a rejection of Claim 22 for at least the reasons expressed. Moreover, *Kunishi* fails to remedy these deficiencies. For example, *Kunishi* does not teach or suggest reflective material positioned within the device to enhance optical transmission through the device. Absent such a teaching *Kunishi* is irrelevant to the basic idea of the present invention. Accordingly, because the cited art, alone or in any reasonable combination, fails to recite all claim limitations, it is respectfully submitted that the cited art fails to establish a *prima facie* case of obviousness as to Claims 31-33. Accordingly, the Applicants respectfully submit that these claims are allowable.

Claims 12-13 and 25-26 have been rejected under 35 U. S. C. § 103(a) as being unpatentable over *Pohnke* in view of *Doi*. Claims 12-13 depend from Claim 9. *Pohnke* is insufficient to establish a rejection of Claim 9 for at least the reasons expressed. Moreover, *Doi* fails to remedy these deficiencies. For example, *Doi* does not teach or suggest optical transmission through the device from one rod end to the other rod end. Absent such a teaching *Doi* is irrelevant to the basic idea of the present invention. Accordingly, because the cited art, alone or in any reasonable combination, fails to recite all claim limitations, it is respectfully submitted that the cited art fails to establish a *prima facie* case of obviousness as to Claims 12-13. Accordingly, the Applicants respectfully submit that these claims are allowable.

Claims 25-26 depend from Claim 22. *Pohnke* is insufficient to establish a rejection of Claim 22 for at least the reasons expressed. Moreover, *Doi* fails to remedy these deficiencies. For example, *Doi* does not teach or suggest reflective material positioned within the device to enhance optical transmission through the device. Absent such a teaching *Doi* is irrelevant to the basic idea of the present invention. Accordingly, because the cited art, alone or in any reasonable combination, fails to recite all claim limitations, it is respectfully submitted that the cited art fails to establish a *prima facie* case of obviousness as to Claims 25-26. Accordingly, the Applicants respectfully submit that these claims are allowable.

**Conclusion:**

It is respectfully submitted that all presently pending claims are allowable and that this case is now in condition for allowance. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

If any fees are due in connection with the filing of this Amendment, the Commissioner is authorized to deduct such fees from the undersigned's Deposit Account No. 50-0388 (Order No. NSC1P272).

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP



Francis T. Kalinski II  
Registration No. 44,177

P.O. Box 70250  
Oakland, CA 94612-0250  
Telephone: (650) 961-8300